

**REMARKS**

After entry of the present amendment, claims 2-6 and 8-30 are pending in the present application. Claims 2-6 and 8-19 are allowed. Claims 20 through 22 stand rejected as being obvious over US 6,293,271 to Barbour in view of DE 75 27 182 to Bosch. Claim 23 stands rejected as being obvious over Barbour in view of Bosch and US 6,004,000 to Hupf et al. The Board of Patent Appeals and Interferences ("Board") affirmed the rejections to claims 20 through 23. Claims 24 to 30 are newly presented.

To further prosecution, the Applicants are amending independent claims 20 and 23, providing additional evidence regarding the terms "waterless cookware" and "waterless cooking," and presenting new claims 24 to 30 to better clarify the claims in light of the decision of the Board. Submitted concurrently with this amendment and response, Applicants also submit a request for continued examination and a supplemental information disclosure statement. In the request for continued examination, Applicants request a suspension of the action for three (3) months. Applicants respectfully request reconsideration in light of the amendments and discussion herein.

**I. Amendments to Independent Claims 20 and 23**

Independent claim 20 now defines waterless cookware that comprises "a waterless cooking vessel configured for stove top waterless cooking applications at sub-atmospheric pressures with little or substantially no added water." Independent claim 23 includes similar limitations. Support for this limitation is found in Applicants' specification at page 3, lines 18-21. The Board noted that the term

“waterless” was not defined in the claims, and therefore interpreted this term broadly. This amendment is intended to better define the term “waterless” in the claims.

The specification is written to one of ordinary skill in the art (MPEP § 608.01). Therefore, Applicants’ disclosure in the specification of a pan suitable for waterless cooking also is a disclosure of a pan configured for cooking at sub-atmospheric conditions with little or substantially no added water. Such definition is how one skilled in the art would understand the term “waterless cookware.”

As evidence that “waterless cookware” is a term of art, Applicants previously submitted the Declaration of Mr. Richard Cappadona.<sup>1</sup> As further support that “waterless cooking” and “waterless cookware” are terms of art, Applicants cite additional evidence in US Patent Nos. 4,193,166 (March 18, 1980) and 4,134,358 (January 16, 1979). These two prior art references were previously submitted in Information Disclosure Statements dated October 26, 2000 and March 22, 2000, respectively. Both of these prior art patents describe “waterless cookware” and “waterless cooking” consistent with that of Mr. Cappadona in his declaration.

As shown by this additional evidence, the term “waterless cooking” is understood by one of ordinary skill as describing cooking at reduced temperatures and sub-atmospheric pressures with little or substantially no added water.

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<sup>1</sup> “[W]aterless cooking takes place at reduced temperatures and at reduced pressures, i.e., under subatmospheric or partial vacuum conditions, and waterless cookware does not include locking arrangements or pressure relief valves. . . . I believe that a person of ordinary skill in the art would not look to patents on outdoor grills or on pressure cookers for suggestions on modifications to waterless cookware.” Declaration of Richard R. Cappadona, January 3, 2002, pages 2-3.

For example, the '166 patent states:

*The so-called waterless cooking method involves the cooking of food, particularly vegetables, using relatively small amounts of water.* This method preserves the nutrients of the food by using lower temperatures and also conserves energy. For example, frozen food can be cooked from its frozen state without the addition of water other than the water which is already frozen in. Other types of food will require small amounts of water, for example, as little as one tablespoon. The waterless cooking method requires a covered pan or container in which the cover is equipped with a device that indicates when the water starts to boil. *When this occurs, the container outlet should be closed and the heat should be reduced to its lowest value thereby creating a vacuum in the container.* The creation of a vacuum permits the food to cook properly at lower temperatures.

('166 Patent, Col. 1, lines 6-23.) (Emphasis added.)

US 4,134,358 states "[w]aterless cooking is old" ('358 Patent, Col. 1, line 5) and describes waterless cooking as follows:

When the contents of a vessel have reached cooking temperature, as indicated by whistling, the slide valve is closed and the temperature reduced *for "waterless" cooking at reduced temperatures and pressures.*

(*Id.*, lines 34-67.) (Emphasis added.) The '358 patent goes on to provide further details of waterless cooking:

When food is being heated in vessel 10, a temperature is reached at which substantial quantities of water vapor are generated and rush through orifices 25 and 36 and the intervening resonance chamber, creating a whistling sound to warn the cook that the temperature should now be reduced for effective waterless cooking. The valve slide 60 is then moved from the open position shown in FIG. 2 to its closed

position in which opening 65 is displaced with respect to opening 36, by pushing on the projecting end 63 of the valve slide which is at the left in FIGS. 2 and 3 until the other abutment 64 strikes stop 38. The top of vessel 10 in which the knob is located is now completely sealed and will retain the vapor within the pan to seal in the flavors and moisture. *Such cooking is well known.*

(*Id.*, Col. 3, line 55 to Col. 4, line 2.) (Emphasis added.)

In addition, the meaning of “waterless cooking” and “waterless cookware” is not just an old term of art, but continues to be understood by one of ordinary skill to be a particular style of cooking using utensils designed therefor. For example, the “Master Dictionary of Food and Wine,” which published in 1996, defines waterless cooking as “[c]ooking slowly in a pot with a very tightly fitting lid, with about one tablespoon of liquid.” (Page 418.) Furthermore, one only needs to visit “waterlesscooking.com” to see that such term is still commonly used for the above described mode of cooking.

Accordingly, “waterless cooking” and “waterless cookware” are terms of art understood by one of ordinary skill to use utensils configured to cook foods at sub-atmospheric pressures with little or substantially no added water.

## **II. The Claims Would Not Have Been Obvious In View Of The Prior Art At The Time Of Applicants’ Invention**

The claims define a waterless cooking vessel configured for stove top waterless cooking applications at sub-atmospheric pressures with little or substantially no added water that also includes a thermometer, which is removable from a knob body for cleaning, disposed on the waterless cooking vessel lid.

None of the cited prior art references disclose such a cooking vessel that is “configured for stove top waterless cooking applications at sub-atmospheric pressures” as now claimed. Barbour discloses a Weber-style grill that is clearly not configured for waterless cooking at sub-atmospheric conditions. The thermometer of Bosch is not removable from its knob for cleaning, but only removable as a unit with the knob. And, Hupf also discloses a temperature indicating unit fixed to a cooking vessel.

Even if combined as proposed, the cited art fails to disclose a cooking vessel configured for waterless cooking applications at sub-atmospheric pressures. The only reference disclosing a removable thermometer (Barbour) does not provide any disclosure to a sealing arrangement for its Weber-style grill to achieve sub-atmospheric cooking as now claimed. While Barbour discloses vents that can be closed, Barbour does not disclose vents that will seal sufficiently to provide sub-atmospheric cooking. Moreover, Barbour has no disclosure that the opening used for the thermometer has any vent or sealing whatsoever. Accordingly, combining Barbour with the other art of record would not provide for a cooking vessel configured for cooking at sub-atmospheric pressures as claimed.

Barbour’s lack of disclosure of a sealing arrangement is not surprising, of course, as providing such sealing in the context of Barbour’s outdoor cooking appliance would not serve any useful purpose. Using such a sealing arrangement/vent in outdoor cooking would lead to an *increase* of pressure within the cooking chamber rather than a decrease of pressure as now claimed.

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Accordingly, Applicants respectfully request withdrawal of the rejections to claims 20 through 23.

### **III. New Claims 24 To 30**

Applicants have added new claims 24 to 30 to better describe the invention. Support for these new claims can be found in Applicants' specification at page 2, lines 3-14; page 3, line 18 to page 4, line 2; page 5, lines 11-25; and page 6, lines 15-17. Applicants request allowance of new claims 24 to 30.

### **IV. Conclusion**

In light of the above, Applicants respectfully request reconsideration and allowance of all claims.

The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,  
FITCH, EVEN, TABIN & FLANNERY

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